United Nations S/2006/325

Security Council

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25 May 2006

Original: English

Letter dated 25 May 2006 from the Permanent Representative of Australia to the United Nations addressed to the President of the Security Council

Further to my letter of 24 May 2006, I am writing to inform you that Australia has now responded positively to the formal written request of 24 May from the Timor-Leste leadership and has agreed to provide appropriate assistance to support that country's defence and security forces to re-establish and maintain public order. Given the ongoing deterioration of the security situation, particularly around Dili, Australia commenced deploying security forces on 25 May 2006. We are working closely with Timor-Leste authorities and coordinating our efforts with contributions from other invited Governments and with the United Nations, including on the ground in Timor-Leste.

I have written in similar terms to the Secretary-General. I would be grateful if you would circulate the present letter as a document of the Security Council.

(*Signed*) Robert **Hill**

06-36243 (E) 250506

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Letter dated 25 May 2006 from the Permanent Representative of Portugal to the United Nations addressed to the President of the Security Council

I have the honour to request that the enclosed letter dated 24 May 2006, sent by the Minister of Foreign Affairs of Portugal and addressed to the Secretary-General, be circulated as a document of the Security Council (see annex).

(*Signed*) João **Salgueiro**
Ambassador
Permanent Representative

06-36295 (E) 250506

Annex to the letter dated 25 May 2006 from the Permanent Representative of Portugal to the United Nations addressed to the President of the Security Council

I would like to share with you the concerns of the Government of Portugal with regard to the present situation of dangerous instability in Timor-Leste.

As you are certainly aware, incidents involving rebellious former elements of the Timorese Armed Forces (F-FDTL) have again occurred in the last 48 hours, in clashes against the Timorese Army and National Police. The prevailing climate of fear has led to the displacement of many thousands of persons.

The authorities of Timor-Leste have already publicly expressed their hope that the United Nations Security Council will urgently consider appropriate measures to help them in order to bring the situation under control, namely by deciding the deployment of an international police force that would assist and reinforce the capability of the National Police of Timor-Leste (PNTL) in the period leading up to the 2007 elections.

At the same time, bilateral contacts to that aim have taken place and the Government of Portugal is considering how best to help the authorities of Timor-Leste. It is the strong belief of my Government that the possible deployment of a force of Portuguese gendarmerie, in response to a request by the Government of Timor-Leste, would gain a great deal in terms of effectiveness if it took place in close cooperation with the United Nations.

Following the vehement appeal launched today by the Timorese authorities to the international community to send a multinational security force, Portugal has consulted with Australia, Malaysia and New Zealand in order to coordinate efforts. We all agree that, desirably, such multinational deployment would profit from an expeditious decision of the Security Council confirming its full international authority.

In bringing the preceding facts to your attention, I trust that the Security Council will have an early discussion on Timor-Leste, with a view to deciding measures that the situation urgently requires.

I kindly request the Secretary-General to convey a copy of the present letter to the President of the Security Council.

(*Signed*) Diogo **Freitas do Amaral**
Minister for State and Foreign Affairs

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Letter dated 25 May 2006 from the Permanent Representative of New Zealand to the United Nations addressed to the President of the Security Council

Further to my letter of 24 May 2006 (S/2006/320), I wish to enclose a copy of a statement released by the Prime Minister of New Zealand on Friday, 26 May 2006, announcing the initial deployment of New Zealand aircraft and personnel to Darwin in response to the situation in Timor-Leste (see annex).

We have conveyed the information separately to the Secretary-General. I would be grateful if you would circulate this letter as a document of the Security Council.

(*Signed*) Rosemary **Banks**
Permanent Representative

06-36328 (E) 250506

Annex to the letter dated 25 May 2006 from the Permanent Representative of New Zealand to the United Nations addressed to the President of the Security Council

New Zealand sends NZDF planes and personnel to Darwin today

Prime Minister Helen Clark announced early this morning that the government is dispatching an RNZAF 757, a Hercules C130, and New Zealand army personnel to Darwin today.

Helen Clark said that the situation on the ground in Timor Leste had deteriorated seriously on Thursday with chaos and murders on the streets of the capital, Dili.

"The United Nations Security Council has made its concern clear and expressed its full understanding of the request made by the Timor Leste government for assistance to Australia, New Zealand, Malaysia, and Portugal.

"I have spoken late Thursday evening with the Secretary-General of the United Nations who has expressed his thanks to each of the four countries approached by Timor Leste for their willingness to assist.

"Given the distance of New Zealand from Timor, it is appropriate to position New Zealand airlift capacity in Darwin now, both to assist with evacuation if required, and with troop transport as required.

"The government has also authorised the positioning of a platoon in Darwin today, and has authorised the mobilisation of a company which is able to be positioned in Darwin in the coming days.

"New Zealand and Australian officials are continuing to talk with Timor Leste representatives about the details of engagement in Timor so that appropriate rules of engagement can be determined, Helen Clark said.

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26 May 2006

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Letter dated 25 May 2006 from the Deputy Permanent Representative of Ethiopia to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from B. Donovan Picard, Legal Counsel to Ethiopia, addressed to Professor Sir Elihu Lauterpacht, President of the Eritrea-Ethiopia Boundary Commission (see annex).*

I should be grateful if the text of the letter could be circulated as a document of the Security Council.

(*Signed*) Negash **Kebret**
Ambassador
Deputy Permanent Representative

* The annex is reproduced in the language of submission only.

06-36549 (E) 300506

Annex to the letter dated 25 May 2006 from the Deputy Permanent Representative of Ethiopia to the United Nations addressed to the President of the Security Council

I am writing with respect to Eritrea's letter of May 22, 2006, and the Commission's request that Ethiopia provide a provisional security plan based on the assumption that Eritrea would accept the Commission's instruction to fully and immediately restore UNMEE's freedom of operations and restore the integrity of the TSZ, pursuant to the Algiers Agreements and United Nations Security Council Resolution 1640.

It was with great disappointment that Ethiopia read Eritrea's letter of May 22. In its letter, Eritrea once again rejected the Commission's instructions, while misrepresenting Ethiopia's actions toward the Commission in a disingenuous attempt to shift focus from its own unlawful and intransigent behavior. Consequently, the request of the Commission to provide a provisional security plan based on the assumption that Eritrea would comply with the Commission's instructions is untenable because Eritrea has made clear that it has no intention of fully restoring UNMEE's freedom of movement and/or the integrity of the TSZ.

Commission Instructions; Eritrea's Obligations

The Commission's instructions to Eritrea were to fully and immediately restore UNMEE's freedom of operation. These instructions are consistent with the Algiers Agreements,[1] United Nations Security Council resolutions,[2] and statements by the Secretary General[3] and the Witnesses.[4]

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[1] In Article 1 of the Cessation of Hostilities Agreement, the parties agree to the "guarantee of the free movement and access of the Peacekeeping Mission . . ." And in Article 2 of that agreement, the parties define the mandate of the Peacekeeping Mission to include, inter alia, "monitor[ing] the temporary security zone provided for in paragraph 12 of this document."

Eritrea's Practical Barriers to Demarcation Activities

Not only is Eritrea obligated under the Algiers Agreements and Security Council resolutions to fully and immediately restore UNMEE's freedom of movement and the integrity of the TSZ, anything less than a full restoration makes demarcation impossible as a practical matter. This point has been repeatedly made clear in the last two EEBC meetings. In the meeting of March 10, 2006, Ambassador Legwaila stated:

> As the witnesses and the Security Council said, if you were to ask me to help you today, I would not be able to do so. I would not be able to do so because I have no helicopters and my people are scattered all over the place and as I say, we withdrew from 18 team sites [within the TSZ]. In other words, you will have to restore UNMEE to what it was before these restrictions and hopefully that is what will happen because otherwise we will be useless to the Boundary Commission as we are now to the Parties. Right now we are useless to the Parties.

At the last EEBC meeting of May 17, the Commission requested the views of the UN, UNMEE, and the Commission's own staff regarding the support that was needed from UNMEE in order for demarcation to take place. All stated forcefully and unequivocally that demarcation could not be supported by UNMEE without the integrity of the TSZ being completely restored and UNMEE being given full freedom of movement. This included restoring UNMEE forces back to Eritrea and rebuilding all 18 sites within the TSZ, which have been taken over by Eritrean troops. It was their expressed opinion that without fully restoring all of UNMEE's capacity and freedom of movement and the integrity of the TSZ, no demarcation work could be

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[2] For example, the UN Security Council Presidential Statement (S/PRST/2006/10) of February 24, 2006, provides The Security Council demands that the parties permit UNMEE to perform its duties without restrictions and provide UNMEE with the necessary access, assistance, support and protection required for the performance of these duties, including its mandated task to assist the EEBC in the expeditious and orderly implementation of the Delimitation Decision, in accordance with Security Council resolutions 1430 (2002) and 1466 (2003). (emphasis added)

[3] As the Secretary General, at paragraph 33 of his Report to the Security Council of March 6, 2006, emphasized: "For the current initiative to proceed, all restrictions of UNMEE operations must be lifted." (emphasis added)

[4] In their meeting of 22 February 2006, the Witnesses to the Algiers Agreements issued a Statement providing that: "The Witnesses urge the parties to permit UNMEE to perform its duties without any restrictions and call on the parties to ensure the free movement of UNMEE personnel in the performance of their responsibilities . . . In particular, the Witnesses note that demarcation of the border cannot proceed unless UNMEE is allowed full freedom of movement throughout its area of operations. (emphasis added)7

done. It was further noted that UNMEE at its present, reduced capacity was ill-equipped to support the demarcation and that if UNMEE were to be reduced to an observer mission, it would simply be impossible for UNMEE to assist in the demarcation. Moreover, it was also stated by the Commission's Chief Surveyor that no contracts related to the demarcation could be signed until UNMEE is fully restored.

Eritrea Has Refused to Honor Commission Instructions

Nowhere in Eritrea's letter does it state that it will restore UNMEE's full freedom of movement and the integrity of the TSZ and remove restrictions--either now or ever. Indeed, one can only infer from the letter that Eritrea has refused to do so. Rather, at most, what Eritrea offers is to allow UNMEE some undefined, limited action at some future point when Eritrea determines that Ethiopia has satisfied Eritrea's demands. Consequently, Eritrea has created a barrier to the demarcation, which until removed prevents any further progress. The Commission cannot accept Eritrea's position without rejecting the unanimous views of UNMEE, the UN, and its own expert staff.

Eritrea Is in Breach of Its Treaty Obligations

Moreover, Eritrea does not have the right to unilaterally redefine its most fundamental treaty obligations under the Algiers Agreements, which clearly require it not to deploy military forces within the TSZ, to refrain from the threat or use of force, and to guarantee UNMEE full freedom of movement.[5] Yet this is precisely what Eritrea has done by asserting that it will dictate what UNMEE can and cannot do and the timing of its actions.

Ethiopia Has Complied with Commission Instructions

Ethiopia also takes exception to Eritrea's misrepresentation of Ethiopia's actions toward the Commission. Unlike Eritrea, Ethiopia sent senior government officials to attend the two meetings recently called for by the EEBC and participated in good faith. Also, unlike Eritrea, Ethiopia agreed to the appointment of General Fulford. Ethiopia agreed to the Commission's requested payment to cover its work, and this is presently being sent. Ethiopia appointed field liaison officers at the Commission's request. Ethiopia has expressed its eagerness to submit a security plan for demarcation immediately upon Eritrea restoring UNMEE and the TSZ so as to

[5] See Cessation of Hostilities Agreement, Articles 1, 2 and 12, as quoted in footnotes 1 and 2 above.

make a security plan possible. And Ethiopia has and will continue to honor UNMEE's full freedom of movement and the integrity of the TSZ.

Ethiopia therefore rejects Eritrea's assertion that "Ethiopia, alone" is responsible for the present delays and the associated expenses of UNMEE. It is Eritrea that has raised physical barriers to demarcation and in its May 22 letter has refused to remove them. The Commission is also aware that the costs associated with the peacekeeping mission, the Boundary Commission, and all of the loss and suffering on both sides of the boundary resulted from Eritrea's invasion of Ethiopia in violation of international law.

Ethiopia is committed to the peaceful settlement of all disputes with Eritrea in accordance with the United Nations Charter and the Algiers Agreements. Ethiopia reiterates its full support for the new initiative by the Witnesses and has demonstrated its willingness to cooperate with the Boundary Commission in this endeavor.

Yours sincerely,

B. Donovan Picard
Legal Counsel to Ethiopia